

Notice of Allowability

Application No.

10/089,121

Examiner

Ljiljana (Lil) V. Ciric

Applicant(s)

JAMES, MALCOLM BARRY

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the replies filed on 20 Dec 2004, 5 May 2006, telephonic interview of 24 Jul 2006.
2. ☒ The allowed claim(s) is/are 57-77, 79-82 and 85-88.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20060724.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


LJILJANA CIRIC
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney J. Harold Nissen, Registration No. 17,283, on July 24, 2006.

2. The application has been amended as follows:

In the claims:

Claim 57, line 3: Delete "which comprises" and replace with --comprising--. Also, delete "of" immediately following "controlling".

Claim 57, line 6: Delete "a" immediately preceding "low".

Claim 57, line 11: Delete "to effect" and replace with --for effecting--.

Claim 57, line 13: Delete "to enable" and replace with --for enabling--. Also, delete "to be arranged, in use,".

Claim 57, lines 14-15: Delete "will be distributed to reach or be" and replace with --reaches or is--.

Claim 58, line 3: Delete "of said passageway and being" and replace with --and configured--.

Claim 58, line 5: Delete "this" and replace with --said--. Also, delete "the" immediately preceding "liquid".

Claim 58, line 7: Delete "forming" and replace with --whereat--. Also, immediately following "second evacuation status", insert --exists--.

Claim 58, line 8: Delete "being less than" and replace with --is less than the degree of evacuation at--.

Claim 59, line 2: Delete "shallow". Also, immediately following "trough", insert --disposed--.

Claim 59, line 3: Delete "maintained cool" and replace with --being cooled--.

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Claim 60, line 2: Delete “its” and replace with –an--.

Claim 60, line 4: Delete “small quantities” and replace with –a quantity--.

Claim 62, line 4: Delete “its other” and replace with –another--.

Claim 62, line 8: Delete “results” and replace with –resulting--.

Claim 63, line 3: Delete “other lifted liquid as from”.

Claim 64, line 2: Delete “of”.

Claim 64, line 4: Delete “a” immediately preceding “low surface tension”.

Claim 64, lines 6-7: Delete “within said chamber”.

Claim 64, line 14: Delete “arranged, in use, to be”.

Claim 64, line 15: Delete “will be distributed to reach or be” and replace with –reaches and is--.

Claim 71, line 1: Delete “58 or”.

Claim 71, line 11: Delete “above other liquid”.

Claim 75, line 6: Delete “heat means to provide a source of heat in an adjacent vicinity to” and replace with –heating means for providing a source of heat in a vicinity of--.

Claim 76, line 8: Delete “to position” and replace with –for positioning--. Also, delete “them” and replace with –the vessels--.

Claim 76, line 12: Delete “reasonably small” and replace with –selected--.

Claim 76, line 13: Delete “selected”.

Claim 80, line 2: Delete “foam causing” and replace with –foam-causing--.

Claim 81, lines 1-2: Delete “foam causing” and replace with –foam-causing--.

Claim 82, line 8: Immediately preceding “the first”, insert –the degree of evacuation corresponding to--.

Claim 82, line 8: Delete “said” immediately preceding –evacuation status--.

Cancel claims 83 and 84.

Claim 87, line 3: Delete “maintained cool” and replace with –being cooled--.

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Claim 88, line 3: Delete "said" immediately preceding "foam".

Claim 88, line 4: Immediately following "liquid", insert --, which--.


3. Claims 57 and 64 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and the remaining claims directed to the previously non-elected species are no longer withdrawn from consideration since all of the claims to these species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached at 571-272-4929.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ljiljana (Lil) V. Ciric
Primary Examiner
Art Unit 3753